

# **Town of Copake Zoning Board of Appeals**

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## **Meeting Minutes of December 17, 2015**

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The regular meeting of the Zoning Board of Appeals of the Town of Copake was held on December 17, 2015, at the Copake Town Hall, 230 Mountain View Road, Copake, NY.

An audience of 5 was present as well as, Susan Sweeney; Town board liaison, and Ed. Ferrato; Code enforcer.

### **1) Roll call:**

The meeting was called to order at 7:00 PM by Jon Strom.

Present were, Frank E. Peteroy, Michael Diperi and Hilarie Thomas.

Kenneth Dow; Copake Town Attorney and Jeffrey Judd came in a few minutes later.

Veronique Fabio: Secretary was present to record the minutes.

### **2) Reading and approval of the minutes of preceding meeting:**

*~ Jon Strom asked for a motion to waive the reading of the October 22 minutes and to approve them.*

*Michael Diperi made the motion and Frank Peteroy seconded, motion carried unanimously.*

*~ Jon indicated that the correction of the November 19 minutes will be discussed in executive session later this evening.*

### **3) Correspondence:**

12-11-15 in ref. to the attorney for Ben Meir, he will not be available as expected due to an injury.

### **4) New Application:**

#### **1) 2015-17, Ellen Wilner, 121 Golf Course Rd. Tax Map # 165.05-01-05**

Relief from 232-9P (1) development within 100' of a body of water.

Rear yard area variance of 44'11 3/4" for the purpose of building a 10'x36' lap pool.

The applicant, Gray Davis is not present tonight for the presentation of the application.

#### **2) 2015-18, Winiker/Leistner 47 Birch Rd (Taconic Shores)**

##### **Tax map 176.1-5-11**

Relief from 232-24B (2) (a) [2]. (*Modification and replacement of a nonconforming structure*).

As well as a rear area variance of 51'7" and a side yard area variance of 22'.

~ Linda Chernewsky represents the owner, she explained that the project consists of a one story addition, screen porch, deck and a new driveway on a nonconforming lot. The 8' addition would be located on the back of the house, the screen porch would be on the side. The position of the driveway dictates the location of the addition.

The proposed height of the building would be 21'9", well under maximum height allowed. The bedroom count will not be increased.

The right side set back needs a variance as well as the rear.

~ Linda Chernewsky presented a "on site visual assessment" letter from Morris Associates confirming the appearance of an adequately functioning sewer system.

The Taconic Shore owners association is aware of the project.

The owners of the property are getting older and need the improvements to facilitate entry into the house.

The application will be referred to the planning board.

~ Jon Strom asked for a motion to accept the application for a public hearing , January 28 2016, Michael made the motion, Frank seconded, all in favor.

~ Linda had a question regarding another application Keifer/Freshman 2014-14. Area variances were granted in 2014, however it came to light that the whole house needs to pivot on itself approximately 4'. Does she need to make a new application or could the variances be amended?

~ Ken Dow asked for details on the variances.

~ Linda explained that the lot is small and docks were stored on the property line by the surrounding property owners, as a result, the construction crew does not have access to the lot.

~ Hilarie Thomas suggested that the hearing for the application could be reopened in order to review a possible amendment to the plans.

~ *Michael Diperi made a motion to reopen the public hearing, Jeffrey Judd seconded, the motion carried unanimously.*

***The hearing for application 2014-14 will be reopen January 28, 2016.***

### **3) 2015-19, John & Julia murphy, 384 lake View Rd. Taconic Shores.**

Tax Map # 176.1-2-51. Addition of two decks 10x10 & 12x10, front yard area variance of 3' requested.

~ John Murphy came to the table to present his project.

He indicated that the platforms are already built, they are located 3' over the front line of the house. The ground is not leveled around the house, the platforms create a flat, comfortable area for a child to play.

The application will be referred to the planning board.

~ *Jon Strom asked for a motion to accept the application for a public hearing, January 28 2016, Michael made the motion, Frank seconded, all in favor.*

### **4) 2015-20, 1094 Lake View Rd Taconic Shores.Karnig/ Kaprelian**

**Tax map # 176.1-3-21.**

Construction of a garage in front yard.

~ Sam Spragis, the builder represents the owner, he indicated that the project consist of a two car garage located in front of the house, the cedar siding will match the present finish of the house. The owner wants to protect his neighbors' views towards Robinson pond by building the garage on the same visual line as the house.

~ Jeffrey noted that the property consist of 3 lots, the house is built on the middle lot.

It was noted that a 15' area variance for the front yard is necessary as well as relief from 232-8D (4).

The application will be referred to the planning board.

*~ Jon Strom asked for a motion to accept the application for a public hearing, January 28 2016, Michael made the motion, Frank seconded, all in favor.*

**5) 2015-21, Fallon/ Merker, 2628 County Rt.7 Tax Map # 186.2-1-200**

Area variance for fence in the front yard higher than 4' in an R district.

~ Lindsay LeBrecht represents the owners of this property. The project consist of a 5' fence in the front and side yard to prevent the owner's large dog from jumping over and keeping three young children safe from the road. The fence is already up. The fence in the front of the property is located 276' from the road.

The ZBA members asked for more details and measurements as well as a signature on the letter allowing Lindsay to represent the owners.

The application will be referred to the planning board.

*~ Jon Strom asked for a motion to accept the application for a public hearing, January 28 2016, Michael made the motion, Frank seconded, all in favor.*

**5) Closed Public Hearing:**

**2015-01, 02, 03, 04 .Allon Ben Meir, Upper Rhoda Pond.**

As stated at the beginning of the meeting Mr. Freeman the attorney for Mr. Ben Meir is incapacitated at the present time, the hearing is postponed until further notice.

## **6) Public Hearing:**

Frank Peteroy recused himself from this hearing as well as Michael Diperi who is the applicant for the following project.

### **1) 2015-12 Karen & Michael DiPeri, 23 Veron Rd. Taconic Shores** **Tax map # 176.1-2-35**

*~ Hilarie Thomas asked for a motion to open the public hearing, Jon Strom made the motion, Jeffrey Judd seconded.*

~ Michael Diperi explained that the land on his property is sloped towards Robinson Pond and the construction of the 3 decks would allow comfortable use of the back yard. The stone stairs need repair as well as the retaining walls.

~ Jon Strom recapped the variances needed,  
Section 232-9 P. (1) Development to within 100' of the water.

A Right side area variance setback of 14' 8".

A Rear yard area variance setback of 35' (will *be corrected to 65'*).

Relief from section 232-24 B (2) (a) [2].

~ Frank Peteroy noted that the planning board's concerns had to do with the proximity of the project to the water. Frank indicated that to respond to that concern it was decided that two runoff barriers will be used instead of only one.

~ Michael Diperi noted that more adequate shrubs will be planted. The uneven stairs will be repaired or rebuilt. There is a retaining wall now, it will be repaired. A new 8'x24' floating dock will be built.

~ Michael Diperi responded to Jon Strom question regarding the distance from the closest deck to the pond as being 15' on one side and 10' on the other.

~ Jon Strom noted that the rear side variance from the water should be 65' not 35'.

Area variance for replacement of deck, steps and retaining wall as well as placement of permanent dock anchors within 100' of Copake lake.

*~ Jon Strom asked for a motion to close the public hearing, Hilarie Thomas made the motion, Jeffrey Judd seconded, all in favor.*

*~ Jon Strom indicated that the ZBA had 62 days before rendering a decision, but he believed that the members will be able to make a decision tonight.*

Jon Strom proceeded to read the 267-b Permitted action by board of appeals.

*a. The Zoning Board of Appeals shall have the power, upon an appeal from a decision or determination of the administrative official charged with the enforcement of such ordinance or local law, to grant area variances as defined herein.*

*b. In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination, the board shall consider:*

*1; Whether an undesirable change will be produced in the character of the Neighborhood or a detriment to nearby properties will be created by the granting of the area variance.*

*Answer: NO*

*2; Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue other than an area variance;*

*Answer: YES*

*3; Whether the requested area variance is substantial;*

*Answer: YES*

*4; Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district;*

*Answer: NO*

*5; Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance.*

*Answer: YES*

*c. The Board of Appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.*

Tonight the ZBA is voting on an area variances for:

Relief from section 232-9P (1) Development within 100' of a body of water.

A Right side area variance setback of 14' 8".

A Rear yard area variance setback of 65'.

Relief from section 232-24 B (2) (a) [2].

Roll call vote: Jeffrey Judd; YES Hilarie Thomas; YES Jon Strom; YES

Area Variance is granted, subject to correction of the rear yard variance from 35' to 65' by the building department.

**Internal business:**

Frank Peteroy has to be interviewed by the ZBA members for renewal of term. Jon Strom noted that he valued Frank's expertise. An email will be sent to the town board to recommend the renewal of Frank Peteroy's term as a ZBA member.

The members went to executive session at 8:00 pm.

*~ Jeffrey Judd asked for a motion to adjourned, Frank Peteroy made the motion, Hilarie Thomas seconded.*

*The meeting was adjourned at 8:15.*

**Next meeting January 28, 2016**

Respectfully submitted. Veronique Fabio, Recording Secretary.

